

REMARKS/ARGUMENTS

This amendment is submitted in response to the Office Action dated June 15, 2005. After entry of this amendment, claims 1-20 will remain pending in this application. Reconsideration and allowance are respectfully requested in view of the remarks made below.

1. The Prior Art Rejections

Claims 1-9 and 11-19 were rejected under Section 102(e) based on U.S. Patent 6,112,923 to Ma ("Ma"). The text of the rejection stated:

Ma discloses, in figs. 13-15, a container comprising a retention structure 250 and a rotational locking structure 244, and a plastic closure comprising a tamper evident band 218 having J-hook retention member 224 with a plurality of pleated retaining elements. The retaining element comprises a leading edge 226 and a trailing edge 228. The trailing edge has an abutment surface being parallel to a radius of the closure (see fig.13).

Claims 10 and 20 were rejected under Section 103 based on Ma. This rejection was explained as follows:

Although Ma does not disclose the closure being made from high density polyethylene, it would have been obvious to one having ordinary skill in the art at the time the invention was made to make the Ma closure form material as claimed, since it has been held to be within the general skill of a worker in the art to select a known material as a matter of obvious design choice. In re Leshin, 125 USPQ 416

Applicant respectfully but strenuously traverses these rejections, for the reasons stated below.

Ma discloses several embodiments of a closure cap. According to the embodiments in Figures 1 to 12, a closure with a retaining element having a circumferentially continuous arcuate portion 30 is disclosed. The continuous arcuate portion 30 is provided with "pleats" 28 pleated radially outwardly of the arcuate portions. In the circumferential direction there is no stop/interruption in this retaining part.

In Ma's second embodiment (see Figures 13 to 16) that was cited as the basis of the Section 102 (e) rejection, rather than pleats, the retaining rim of the tamper evident band is provided by rigid, incompressible wedge or ramp elements that form part of a ratchet mechanism (see column 5, line 7 to 10).

Independent Claims 1 and 11 of the present application are directed to a J-hook retention member that includes a plurality of pleated retaining elements, wherein at least one of the pleated retaining elements is further constructed and arranged to engage the container so as to resist rotation with respect to the container.

The rejection states that Ma discloses (in Figures 13 to 15) a closure with a band having a J-hook retention member with a plurality of pleated retaining elements. Applicant strongly disagrees. The retaining elements shown in Figures 13 to 15 are rigid, incompressible flaps/wedges that do not fold as would a pleated retaining element. There are no pleats. This is clearly taught by Ma's specification (see col. 5, line 7 to 10), where it is stated that in this embodiment, wedges or ramp elements are used rather than including outward pleats. This constitutes a clear teaching away from the use of pleats in the embodiment of Figures 13-15 in Ma. For these reasons, independent Claims 1 and 11 and all claims depending therefrom are clearly novel over U.S. Patent 6,112,923 to Ma.

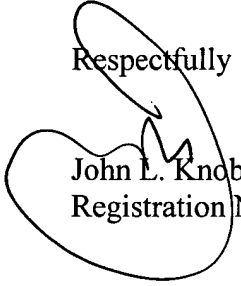
Claims 1 and 11 are neither obvious over Ma: in particular, there is no hint or motivation in the reference to provide a J-hook retention member with pleats and with an additional, rotation resisting structure. Column 5, lines 7 to 10 of Ma rather teach away from using pleats in context with such ratchet mechanism.

Claim 1 and 11 and the claims depending therefrom are therefore clearly new and inventive over U.S. Patent 6,112,923 to Ma, and an indication in confirmation of this is respectfully requested in the next Official Communication.

2. Conclusion

Applicant has made an earnest effort to place this application in condition for allowance. If the Examiner feels that a telephone interview would expedite prosecution of this patent application, he or she is respectfully invited to telephone the undersigned at 215-599-0600.

Respectfully submitted,



John L. Knoble
Registration No. 32,387

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KNOBLE YOSHIDA & DUNLEAVY, LLC
Eight Penn Center- Suite 1350
1628 John F. Kennedy Boulevard
Philadelphia, PA 19103
(215) 599-0600